

STATE OF MICHIGAN
COURT OF APPEALS

GWENDOLYN COLLINS,

Plaintiff-Appellee,

V

COMERICA BANK and CATHY MASALSKIS,

Defendants-Appellants.

UNPUBLISHED
December 2, 2003

No. 227834
Wayne Circuit Court
LC No. 99-930376-CZ

ON REMAND

Before: Whitbeck, C.J., and Wilder and Zahra, JJ.

PER CURIAM.

This case is before this Court on remand from our Supreme Court for consideration of whether defendant Masalskis was properly served, an issue that we did not address in our first opinion in this matter in light of our resolution of another issue. *Collins v Comerica Bank*, 468 Mich 628, 634-635 n 4; 664 NW2d 713 (2003) (*Collins II*). We need not address whether Masalskis was properly served, however, as we conclude that plaintiff's only remaining claims against Masalskis are not legally cognizable. Accordingly, we reverse the trial court's denial of defendants' motion for summary disposition pertaining to Masalskis and remand for further proceedings.

I. Facts and Proceedings

Our Supreme Court stated the facts underlying plaintiff's suit as follows:

Plaintiff Gwendolyn Collins was employed by defendant Comerica Bank as a customer-service representative. In August 1996, defendant notified plaintiff that an investigation was being conducted to determine whether she had accepted cash gifts from customers or disclosed customer account balances to third parties.

On September 5, 1996, defendant suspended plaintiff, apparently for failing to cooperate with the investigation. While suspended, plaintiff was required to be available during normal working hours. After the investigation was completed, defendant terminated plaintiff's employment on September 25, 1996.

On September 24, 1999, plaintiff filed a complaint alleging, inter alia, that the termination of her employment was the product of race and gender discrimination. Defendant moved for summary disposition on several grounds.

One of the arguments advanced by defendant was that plaintiff failed to meet the applicable three-year period of limitation on filing discrimination claims, MCL 600.5805(10). [*Collins II*, *supra* at 629-630.]

Defendants asserted that plaintiff's claims of discriminatory termination, invasion of privacy, and tortious interference with contractual and business relationships were time-barred by plaintiff's failure to timely file these claims. Defendants alternatively requested that the trial court strike plaintiff's claims against Masalskis because Masalskis was not served with the summons and complaint before the summons expired. Plaintiff opposed defendants' motion. The trial court denied defendants' motion, concluding that plaintiff had complied with the statute of limitations applicable to each of her claims and that plaintiff had accomplished service on Masalskis before the summons expired.

After granting leave to appeal, this Court concluded that plaintiff failed to timely file suit. *Collins v Comerica Bank*, unpublished opinion per curiam, issued April 30, 2002 (Docket No. 227834) (*Collins I*). Because we held that plaintiff did not comply with the statute of limitations, we did not address whether Masalskis had been adequately served. *Id.* at 6. The Supreme Court reversed our decision only as to plaintiff's claims of discriminatory termination and remanded for our consideration of whether service of Masalskis with regard to the discrimination claims was adequate. *Collins II*, *supra* at 634-635.

II. Standard of Review

We review de novo the trial court's decision to grant or deny a motion for summary disposition. *Collins II*, *supra* at 631.

III. Analysis

We need not address whether Masalskis was adequately served because plaintiff's surviving claims against Masalskis fail as a matter of law. In *Jager v Nationwide Truck Brokers, Inc.*, 252 Mich App 464, 478, 485; 652 NW2d 503 (2002), this Court held that Michigan's Civil Rights Act (CRA), MCL 37.2101, *et seq.*, does not impose liability on individuals but, rather, imposes liability solely on the plaintiff's employer. Accordingly, the counts of plaintiff's complaint that allege that defendants violated the CRA do not state viable claims against Masalskis individually, and summary disposition in her favor is appropriate pursuant to MCR 2.116(C)(8). Although defendants did not raise this issue in their brief on appeal, "this Court may go beyond the issues raised on appeal and address issues that, in this Court's opinion, justice requires be considered and resolved." *Frericks v Highland Twp.*, 228 Mich App 575, 586; 579 NW2d 441 (1998). Additionally, we are aware of all of the facts necessary to resolve this unpreserved question of law. See *Steward v Panek*, 251 Mich App 546, 554; 652 NW2d 232 (2002).

Reversed and remanded for proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ William C. Whitbeck
/s/ Kurtis T. Wilder
/s/ Brian K. Zahra